

NATURAL RESOURCES BOARD

MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, September 27, 2006 at the Heritage Hill State Historical Site, 2640 S. Webster Ave., Green Bay, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 3:32 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

Gerald O'Brien – present	Dan Poulson - present
Jonathan Ela – present	Dave Clausen - present
John Welter – present	Christine Thomas – present
Steve Willett – present	

1.B. Approval of minutes from August 16, 2006

Mr. Ela MOVED, seconded by Mr. Welter approval of the minutes from August 16, 2006. The motion carried unanimously by all members.

1.C. Approval of Minutes from September 5, 2006 Conference Call

Mr. Poulson MOVED, seconded by Mr. Welter approval of the minutes from September 5, 2006 Conference Call. The motion carried unanimously by all members.

1.D. Approval of agenda for September 27, 2006

Mr. Clausen MOVED, seconded by Mr. Poulson approval of the agenda September 27, 2006. The motion carried unanimously by all members.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Welter MOVED, seconded by Mr. Poulson approval of the Real Estate Transactions. The motion carried unanimously by all members.

3. Action Items

3.A. Review and approval of the Department's 2007-2009 Biennial Budget, including the 2007-2009 Capital Development Budget.

Joe Polasek, Budget Director, Management and Budget Bureau stated that the Department's 2007-09 state biennial budget request includes operating budget, capital budget, and Environmental Improvement Fund components:

1. The proposed two-year operating budget is \$ 569.1 million for 2007-08 and \$569.7 million for 2008-09. Of these amounts, about \$218.2 million annually, or 38% represents local assistance and debt service costs. The remaining \$351.7 million reflects Department costs to provide services. In total, the two-year budget includes an increase of \$60.3 million over the 2005-07 biennial budget. Of this increase, \$27.8 million represents cost to continue and debt service items. When cost to continue and debt service are excluded, this 2007-09 budget reflects a 3% growth over base.
2. The budget would also authorize \$53.46 million for capital development, and \$57 million for land acquisition.
3. The biennial finance plan for the Environmental Improvement Fund (EIF) includes an increase of \$85.7 million in general obligation bonding authority, an increase of \$368.2 million of revenue bonding authority, and \$143.1 million of present value subsidy for the Clean Water Fund; an increase of \$6.1 million in general obligation bonding authority and \$16.7 million of present value subsidy for the Safe Drinking Water Fund; and \$3.4 million of present value subsidy for the Land Recycling Loan Program.

Mr. Willett stated that every budget cycle we talk about bringing more education to the inner city of Milwaukee area. It's a significant portion of our population. He suggested increasing the funding for that populace. Where would that funding come from: the conservation fund or Fish and Wildlife Account?

Mr. Polasek stated it depends on what the education focused on. It could come from split money from a variety of accounts. If it was hunting and fishing skills oriented, then it would probably come strictly out of the Fish and Wildlife Account.

Mr. O'Brien asked if the entire base budget is spent each cycle and if it is not, does it carry over.

Mr. Polasek stated that the entire base isn't spent because programs often hold positions vacant or know that the operation budget will not cover costs and they will hold back expenditures and allow the expenditure authority to lapse.

Mr. Willett asked about the state revenues.

Mr. Polasek stated it depends on which revenue source you are speaking about. We will know better at the end of November once the new budget projections are released.

Mr. Willett asked for a grant development program for invasive species funded by forestry accounts.

Secretary Hassett stated that the aquatic invasive species are a very serious problem and we have tripled the funds to fight them in the past few years. The Department is looking for more money to fight this issue.

Mr. Willett asked about the Target Runoff Management (TRM) program and how much funding is needed to make the program successful.

Mr. Polasek stated a total of \$10 million or an additional \$8 million.

Dr. Thomas asked about the process and the opportunity to fine tune the budget.

Mr. Polasek stated that this is the NRB's opportunity to make changes to the budget.

Mr. Poulson asked again about the additional \$8 million needed for the TRM program.

Todd Ambs, Administrator, Water Division stated that this program is the successor to the Priority Watershed Program.

Mr. Willett stated that for TRM to be effective you need an additional \$8 million and that won't happen until the next biennium because you are waiting to finish the current program.

Mr. Ambs stated that the reason we need the money is to cost share when there is a problem.

Mr. Ela asked whether his understanding was correct that there are two ways in which we can recommend increases to the Governor. We can recommend increases in programs that are paid for by a segregated fund, in which case there will have to be compensatory decreases in other programs financed by that fund. Or we can recommend that increases be financed by additional GPR funding.

Mr. Polasek stated that is correct.

Mr. Welter asked about the \$58,000 permitting fees under fisheries management and what that is for and will there be revenue from an outside source.

Mr. Polasek stated that the source would be tournament fees. The cost depends on which option is decided on when the rule is brought before the NRB.

Mr. Welter stated that on the tournament green sheet that we will be voting on later today states that the cost of tournaments is estimated at \$76,000. Will we have to use license fees to make up the difference between those two numbers?

Mr. Polasek stated if those two estimates are accurate then yes, but the NRB could direct the bureau not to spend more money than is generated.

John Hagman, Section Chief, Facilities Management gave an overview of the capital budget proposals. The budget would authorize \$53.46 million for capital development.

Mr. Welter asked about conservation segregated borrowing.

Mr. Hagman stated that the federal funds are in a separate account. We restrict using that fund for those programs that can pay the debt service on it. This biennium we are using those funds for the Wild Rose Fish Hatchery.

Dr. Thomas asked about additional park operation funds for new campground constructions or is the current operation budget going to be stretched thinner.

Mr. Hagman stated that electric sites generate revenue and we need to expand the electrical campsites to generate that revenue.

Mr. O'Brien asked about the use of stewardship funds.

Mr. Hagman stated that there are three components to the stewardship fund: land acquisition, capital development and grant funds. Of the \$60 million, \$45 million goes to land acquisitions, \$7 million for capital development and \$8 million for grants.

Dr. Thomas asked about camping and park fee increases.

Laurie Osterndorf, Administrator, Land Division stated that there isn't a proposal to raise camping fees.

Secretary Hassett stated that he is discussing fee increases with staff and external sources. Last time the fees were raised, there wasn't any controversy at the legislative level. He is concerned about maintenance and infrastructure of our parks.

Mr. Welter asked if campground fees cover the expenses of the campgrounds.

Mr. Hagman stated that yes, but those fees are also used in other areas of the park.

Mr. O'Brien asked if there are a lot of complaints about our campgrounds going downhill due to budget constraints.

Ms. Osterndorf stated that on a whole people enjoy their stay at parks, however, there are a small number of complaints.

Mr. Ela MOVED, seconded by Mr. Poulson approval of the Department's 2007-2009 Biennial operating Budget.

Mr. Willett MOVED, seconded by Mr. Welter to amend the budget to fully fund the TRM program by increasing the budget by \$8 million. The motion carried unanimously by all members.

Mr. Willett MOVED, seconded by Mr. Welter add \$800,000 from new GPR funds for Urban environmental and outdoor education programs.

Mr. Welter asked where the \$800,000 figure came from.

Mr. Willett stated that this was the original figure from the Department. He would like to see the money come from the stewardship grant program.

Mr. Polasek stated the grant program funds are used to give nonprofit organizations funds to purchase land to protect. Finding a funding source is the issue. The logical choice would be the fish and wildlife fund because those are the skills we would likely teach.

Dr. Thomas added that the energy and funds to run these programs are excessive compared to the return. There needs to be a plan before we throw money at this.

Mr. Poulson stated that partnerships need to be involved.

Mr. Ela said that he hoped the proposal goes beyond traditional outdoor skills, and gave as an example very successful efforts to teach kids about pollution issues by having them do actual water sampling.

Mr. Willett agreed that it would.

Mr. Welter stated that he is going to support this proposal, but there needs to be a plan to implement this program.

Dr. Thomas stated that new GPR money should be used to fund this program.

Mr. Willett agreed with Dr. Thomas.

The amendment carried unanimously by all members.

Mr. Welter MOVED, seconded by Mr. Clausen to add \$17,900 for a total of \$76,000 for fisheries budget to fully fund the oversight of fishing tournaments. The amendment carried unanimously by all members.

The Original motion carried unanimously as amended.

Mr. Welter MOVED, seconded by Mr. Ela approval of the Capital Development Budget. The motion carried unanimously by all members.

Mr. Clausen MOVED, seconded by Mr. Willett approval of biennial finance plan for the Environmental Improvement Fund. The motion carried unanimously by all members.

Mr. Ela MOVED, seconded by Mr. Welter approval subject to of final technical adjustments being made by the Secretary. The motion carried unanimously by all members.

3.B. Air, Waste, and Water/Enforcement

3.B.1. Adoption of Board Order WA-18-06, revisions to NR 520 pertaining to Solid Waste Fees.

Dennis Mack, Section Chief, Technical Support, Waste Management Bureau, stated that these rule revisions are being proposed to modify language in Chapter NR 520, Wis. Adm. Code, in order to make the requirements in s. NR 520.04(1)(d)5. more manageable from a budgeting perspective. Current language requires that, if the Waste and Materials Management Program Revenue Account balance at the end of the previous fiscal year is greater than 8% of the expenditure level authorized in s. 20.370(2)(dg), Stats., the DNR must submit to the Natural Resources Board proposed rule revisions to modify the landfill license surcharge fee to more closely align revenues with expenditures. Eight percent of the expenditure level in the account is approximately \$250,000. In FY04 through FY06, the account balance averaged \$420,000 or approximately 13% of the expenditure level. However, projections for the account show the balance at or below the \$250,000 level in less than 4 years. We believe that the concept of a certain program revenue account balance triggering adjustments in the landfill license surcharge fee is a sound business practice. However, annual variation in land filled tonnages and other program revenue sources have proven this 8% level too low to avoid the effect of frequent fee increases and decreases. The Waste and Materials Management Program has been fiscally responsible in its management of this account and holds annual public meetings to report on the status of the account. The Department is recommending rule revisions that will allow better fiscal management of the Waste Management Program Revenue Account and avoid multiple rule revisions related to increasing and decreasing fees. This rule package proposes to revise the language to require the Department to modify the surcharge fee to more closely align revenues with expenditures if the account balance exceeds 20% of the expenditure level of the program revenue account authorized in s. 20.370(2)(dg), Stats., for three consecutive fiscal years. We believe that the proposed language allows for better fiscal management of the account, without having a negative impact on stakeholders.

Mr. Welter MOVED, seconded by Mr. Willett adoption of Board Order WA-18-06, revisions to NR 520 pertaining to Solid Waste Fees. The motion carried unanimously by all members.

3.B.2. Request authorization to hold public hearings for Board Order AM-29-06, revisions to NR 463, pertaining to incorporation of the national emission standards for hazardous air pollutants (NESHAP) for iron and steel foundries.

Kevin Kessler, Director, Bureau of Air Management, stated that the US EPA promulgated the NESHAP for iron and steel foundries on April 22, 2004 (69 FR 21906), and amended this NESHAP on May 20, 2005 (70 FR 29400). The proposed rule incorporates this NESHAP, as amended, into the Wisconsin Administrative Code by creating ch. NR 463 subchapter III and Appendix EEEEE in ch. NR 460. Chapter NR 484 is also amended to incorporate by reference two test methods. Section 285.27(2)(a), Stats., requires the Department to promulgate NESHAP into the administrative code. The Natural Resources Board has not acted on this NESHAP before. Since the proposed regulation is already in effect at the national level, there is little discretion for the Department and there are no policy issues to be resolved. The proposed rule will affect about 26 facilities statewide.

Mr. Ela MOVED, seconded by Mr. Willett approval of request authorization to hold public hearings for Board Order AM-29-06, revisions to NR 463, pertaining to incorporation of the national emission standards for hazardous air pollutants (NESHAP) for iron and steel foundries. The motion carried unanimously by all members.

3.B.3. Authorization to hold public hearings for Board Order AM-05-06, amendments to NR 440 pertaining to federal new source performance standards.

Kevin Kessler stated that under section 111 of the Clean Air Act, the US Environmental Protection Agency (EPA) is required to promulgate regulations establishing standards of performance for new stationary sources (NSPS). These standards are contained in title 40, part 60 of the Code of Federal Regulations. The Department is required, under s. 285.27(1)(a), Stats., to incorporate these standards into

rule, and does so in ch. NR 440, Wis. Adm. Code. Periodically it is necessary to amend ch. NR 440, Wis. Adm. Code, to address changes the EPA makes to existing NSPS and to incorporate standards promulgated by EPA for new source categories. These proposed revisions address changes made by the EPA between July, 1994 and April, 2005 to general requirements which apply to all source categories, and to the specific standards for 60 individual source categories. Requirements relating to mercury emission from certain electric steam generating units which EPA promulgated on May 18, 2005, and subsequently amended, are not proposed here. These requirements will be addressed separately in Natural Resources Board Order AM-32-05. Standards for 5 source categories not currently included in ch. NR 440 are also being proposed. The proposed revisions are not expected to be controversial since they are substantively identical to the federal standards already in effect.

The last revisions to the NSPS in ch. NR 440, Wis. Adm. Code, approved by the Board became effective on January 1, 1994

Dr. Thomas MOVED, seconded by Mr. Clausen approval of request authorization to hold public hearings for Board Order AM-05-06, amendments to NR 440 pertaining to federal new source performance standards. The motion carried unanimously by all members.

3.C. Land Management, Recreation, and Fisheries/Wildlife

3.C.1. Adoption of Board Order WM-02-06, revisions to NR 10 and NR 45, pertaining to wildlife housekeeping rule changes.

Tom Van Haren, Natural Resources Policy Officer, Law Enforcement Bureau stated that annually the department updates administrative code language to correct inconsistencies and outdated language and provide clarification where appropriate. This year, the department is proposing the following changes related to hunting and trapping, specifically, this rule:

- Corrects an inaccurate statutory cross-reference in ch. NR 10, Wis. Adm. Code
- Clarifies that site exposed bait and scent restrictions in place for trapping apply to all traps, including snares and cable restraints
- Clarifies that the trapper who catches or kills a bobcat, fisher or otter must use their own carcass tag on the animal
- Corrects and clarifies the boundaries between wild turkey hunting zones and bear hunting zones in Lincoln County, and provides consistency between deer, turkey and bear hunting zone boundaries
- Updates regulations regarding the identification of tree stands on state-owned lands

Mr. Willett MOVED, seconded by Mr. Poulson adoption of Board Order WM-02-06, revisions to NR 10 and NR 45, pertaining to wildlife housekeeping rule changes.

Mr. Welter asked about deer, turkey and bear hunting zone boundaries.

Officer Van Haren stated explained the distinctions between the boundaries.

The motion carried unanimously by all members.

3.C.2. Adoption of Board Order WM-51-04, revisions to NR 12, NR 16, and NR 17 relating to hound training

Tom Hauge, Director, Wildlife Management Bureau stated that this rule specifically establishes rules for training hunting dogs to pursue captive rabbits, foxes and coyotes within large acreage training enclosures. The rule also provides regulations for the use of captive bobcat, bear and raccoon in a more controlled training environment which ensures human safety, safety of the captive animal, and prevents the opportunity for the unintentional escape of the captive wild animals into the wild which helps reduce the risk of disease and parasite introduction. During the public comment period a number of issues were raised, and the department attempted to find consensus on a number of these issues. Additionally, following the official public comment period the department revisited a number of the proposed recommendations with user groups to develop this final proposal. Some of the significant changes from the rule that went out to hearing include:

- 1) Reduced the amount of time required before the pursuit of nuisance caught and released wild animals could begin.
- 2) Reduced the total number of hours that training on captive wild animals may occur from 16 to 12 hours.

- 3) Reduced the minimum size of starter enclosures from 20 to 15 acres and extended the distance a starter enclosure could be from the large acreage enclosure from 1/4 mile to 2 miles.
- 4) Relaxed record keeping requirements for private facility owners and their immediate family members.
- 5) Extended compliance deadlines.
- 6) Replaced the 18 year old requirement, with a requirement that the facility owner may designate a person(s) knowledgeable of the rules and regulations related to dog training and is capable of controlling the dogs within the enclosure.

A significant item that the department is not recommending for change from the version of the rule that went out to hearing, relates to roll cages for raccoons. The use of roll cages for raccoons would continue to be allowed, provided the dogs are kept a foot from the cage containing the captive animal via restraint or cage design.

Mr. Welter asked about the definition of enrichment.

Kurt Thiede, Conservation Congress Liaison, stated that enrichment standards are required for zoos and other captive animal enclosures.

Mr. Welter asked about marking requirements.

Mr. Van Haren stated that each animal must have a marking that identifies that animal to its owner such as tattoo or microchip.

Dr. Thomas complimented the staff on the layout of the specific issues of the rule.

Public Appearances

1. **LaVern Gordee**, Monroe, representing himself, stated he is an enclosure owner and stated that he has 20 man made escape hatches for the captive wildlife to get away from the dogs. He disagrees with the reducing of hours from 16 to 12 out of 24 that may take place, disallowing the docking of tails, installing a hot wire or apron around the exterior of the enclosure which would be economically very expensive, requiring enclosure owner to pay a licensed veterinarian to neuter male coyotes, and size of puppy pen.

Mr. Welter asked how you train game to use escape hatches.

Mr. Gordee stated you use food or non aggressive dogs to get them to the escape hatches.

Mr. Welter asked if he is a member of any dog clubs.

Mr. Gordee stated that he is not.

Mr. O'Brien asked if this is a full time job.

Mr. Gordee stated no, it is not and he cannot make a living at it. He has a job outside this business.

2. **George Meyer**, Madison, Wisconsin Wildlife Federation, stated the history of the law and the intentions of the law. It is to grandfather the existing rule. There is good animal welfare within the facilities. The lifespan is 3 to 4 times longer than animals in the wild. Overall the WWF supports the rule if the following amendments are implemented.

a. Size and Distance of Inexperienced Dog Training Enclosures - Modify subsection NR 17.045 (3) (e) (2) by adding: "Existing fox enclosures for inexperienced dogs shall be authorized if they are five acres in size and are within two miles of an enclosure referenced in sub. (e) (1) and provide sufficient places of refuges for the fox."

b. Hours of operation for large acreage dog training facilities - Modify subsection NR 17.07 (3) (c), sentence one to read: "The length of time that captive wild bear, bobcat, coyote, fox or raccoon may be used for training exercises in large acreage dog training enclosures may not exceed 16 hours within a 24-hour period, all other training exercises shall be limited to 12 hours within a 24 hour period."

c. Continued Use of Roll Cages - Modify subsections NR 17.02 (3) (b) and NR 17.07 (3) (b) by deleting paragraphs five and modifying paragraphs eight to read: "Roll cages may not be used for dog training unless the roll cage is designed in a manner so as to provide adequate protection for the animal and provides sufficient space to allow the animal to make normal postural adjustments with adequate freedom of movement to sit, stand on all 4 legs and turn around and lie in a normal manner and is designed to withstand the normal rigors of training."

d. Multiple species in large acreage dog training facilities - Modify the second sentence of section NR 17.045 (1) (e) to read: "An enclosure may only be permitted for one species unless the enclosure is over 150 acres."

e. Bobbing of coyote tails for animals in a large acreage dog training enclosure - Modify subsection NR 17.045 (3) (c) (3) by adding "However this subsection does not preclude the bobbing of the tails for coyotes in large acreage dog training enclosures."

Mr. O'Brien asked if WWF had an opportunity to be involved in the rule making process.

Mr. Meyer stated yes, but the problem was changes made after the rule making process.

Mr. O'Brien asked if the rule as written would put enclosure owners out of business.

Mr. Meyer stated they will not be able to make the changes economically.

3. **Pete Peck**, Lodi, representing himself, stated that he owns an enclosure. He stated that the reduced hours are not necessary. An 8 hour rest period is sufficient. He asked that his 5 acre puppy enclosure be grandfathered in. He asked the NRB to allow a hound training license through the ALIS system.

4. **Corky Meyer**, West Bend, Wisconsin Wildlife Federation, stated he would like to go on record in opposition of this rule. Specifically he asked for two changes: time of training and roll cages. He explained the use of roll cages and the process of training a puppy using one.

Mr. Ela asked what his specific opposition is to the roll cage provision.

Mr. Meyer stated he disagrees with the one foot rule and the species limitation.

Mr. Clausen asked about using an experienced dog with a young dog rather than roll cages.

Mr. Meyer stated that method can also be used in cooperation with the roll cage.

Mr. Welter asked where he got the number 3000-5000 roll cages in the state.

Mr. Meyer stated it's a number that he pulled out of the air based on experience and going to hound clubs.

5. **Dennis Roehrborn**, Plymouth, Wisconsin Coon Hunter Association, stated he is concerned about the 1 foot rule between roll cage and dog. It's unrealistic because you cannot control the animal in the roll cage. As long as there is no contact between the two animals, there isn't any danger for either animal.

Mr. Ela asked why the one foot rule was acceptable for a stationary cage structure, but not a roll cage.

Mr. Roehrborn stated that the raccoon will roll toward the pup.

6. **Carla Peck**, Lodi, representing herself, stated she owns an enclosure along with her husband. She asked for changes to the size of the training enclosures for inexperienced dogs and the hours of training. She asked that the Dept. to acknowledge the experience of the hound trainers and enclosure owners.

Mr. Welter asked what kind of animals is used in the puppy enclosure.

Mrs. Peck stated fox.

7. **Ed Harvey**, Waldo, Conservation Congress, stated there are some changes he would like to request including changing the language of the roll cages, increasing the hours of operation, allowing multiple species enclosures, bobbing tails, size of puppy enclosures.

8. **Patricia Randolph**, Portage, RAVEN and Bear Interest Group (BIG), stated she served on the conservation congress from 1999-2002 and was the only non-hunting community representative throughout its history. She stated that fair chase is being taken away and hunting has been turned into a farming operation. She stated that hunters continue to control the political arena. She doesn't support this rule if there is no enforcement or oversight.

Mr. Ela asked if she is opposed to these rules.

Ms. Randolph stated the rules are necessary, but she doesn't want the erosion of these rules.

Dr. Thomas stated that there was a non hunter, non angler elected to the congress in the 1930s named Wilhelmine La Budde.

9. **Linda Das**, Superior, representing herself, stated that every creature deserves fair and humane treatment. WI Bill 239 is inhumane and un-American. She stated that she doesn't think the general public is aware of these facilities.

Mr. Willett asked if she is opposed to the rules.

Ms. Das stated that she doesn't think animals should be put into cages to be chased.

10. **Brian Kolb**, New Holstein, Wisconsin Association of Sporting Dogs, stated he supports the changes offered by the WWF. He directed the NRB to page 13 of the green sheet regarding the size of the 2 by 2 inch regulation.

Mr. Ela asked Mr. Thiede about this specification.

Mr. Thiede stated there haven't been any problems and it could be changed as a housekeeping matter.

11. **Bob Welch**, Redgranite, Wisconsin Hunters' Rights Coalition, stated that the intent of the legislature was to prevent disease transmission rather than regulate the training of hounds. He doesn't support the restriction of the roll cages. He supports the WWF changes.

12. **Jeff Traska**, Wausau, representing himself, showed a video where hounds caught a bear and were tearing it apart.

Mr. Ela asked if this is an enclosure training situation.

Mr. Traska stated that no it was not in an enclosure, but it was a training situation.

Mr. Welter asked if this happened in Wisconsin.

Mr. Traska stated that it was from Wisconsin.

Dr. Thomas asked for staff comment on the video.

Mr. Hauge stated it is not legal to kill a bear outside the hunting season.

Officer Van Haren added that this group was exceeding the number of dogs allowed to pursue a bear.

13. **Leslie Hamilton**, Madison, Animal Law Association of Wisconsin, stated that neighbors of an enclosure stated that 3 separate times they witnessed dogs tearing coyotes apart. She supports the rule because they are necessary.

14. **Jerry Knutson**, Plover, representing himself, stated he trains beagles. He distributed a history of beagleing. He stated that training facilities are designed with land use in mind. The clubs and dog owners keep the dogs from trespassing on neighboring properties during trials. The enclosure allows for healthy wildlife that lives longer.

15. **Anneliese Emerson**, Madison, BIG, stated she doesn't support training dogs in enclosures. She states that enclosures take away the fair chase. She is opposed to many aspects of the rules including cage usage, long periods of time animals may be chased, bobbing of tails, weak specification of shelter, food and water.

Mr. Ela asked why she is taping the meeting.

Ms. Emerson stated she would like to get this information out to the general public.

Mr. Willett asked if she is speaking on behalf of the Humane Society.

Ms. Emerson stated she is not.

16. **Marjorie Roach**, Augusta, Wisconsin Association of Beagle Clubs, stated she owns an enclosure and is a licensed dog trainer. She urged the adoption of this rule with the modifications as proposed by the WWF, especially the 16 hour rule and the puppy enclosure proximity to other enclosures.

Mr. Welter asked the about the season of the training in the enclosure.

Ms. Roach stated that she trains 12 months a year.

At 12:45 the NRB adjourned for lunch and an executive session.

Mr. Welter MOVED, seconded by Mr. Ela to adjourn into executive session under the authority of s.19.85(1) (e) Wisconsin Statutes, for the purpose of discussing potential real estate transactions. A roll call vote was taken.

Gerald O'Brien - yes Dan Poulson - yes

Jonathan Ela – yes Dave Clausen - yes

John Welter – yes Christine Thomas – yes

Steve Willett – yes

At 1:40 the NRB reconvened and reported the NRB did not take action at the executive session.

Mr. Willett MOVED, seconded by Mr. Welter adoption of Board Order WM-51-04, revisions to NR 12, NR 16, and NR 17 relating to hound training.

Mr. Willett MOVED, seconded by Mr. Poulson to amend the motion to include the WWF recommendations outlined in WWF's attachment 1.

1. Size and Distance of Inexperienced Dog Training Enclosures

Modify subsection NR 17.045 (3) (e) (2) by adding: “Existing fox enclosures for inexperienced dogs shall be authorized if they are five acres in size and are within two miles of an enclosure referenced in sub. (e) (1) and provide sufficient places of refuges for the fox.”

2. Hours of operation for large acreage dog training facilities
Modify subsection NR 17.07 (3) (c), sentence one to read: “The length of time that captive wild bear, bobcat, coyote, fox or raccoon may be used for training exercises in large acreage dog training enclosures may not exceed 16 hours within a 24-hour period, all other training exercises shall be limited to 12 hours within a 24 hour period.”
3. Continued Use of Roll Cages
Modify subsections NR 17.02 (3) (b) and NR 17.07 (3) (b) by deleting paragraphs five and modifying paragraphs eight to read: “Roll cages may not be used for dog training unless the roll cage is designed in a manner so as to provide adequate protection for the animal and provides sufficient space to allow the animal to make normal postural adjustments with adequate freedom of movement to sit, stand on all 4 legs and turn around and lie in a normal manner and is designed to withstand the normal rigors of training.”
4. Multiple species in large acreage dog training facilities
Modify the second sentence of section NR 17.045 (1) (e) to read: “An enclosure may only be permitted for one species unless the enclosure is over 150 acres.”
5. Bobbing of coyote tails for animals in a large acreage dog training enclosure
Modify subsection NR 17.045 (3) (c) (3) by adding “However this subsection does not preclude the bobbing of the tails for coyotes in large acreage dog training enclosures.”

Mr. Clausen stated he can go along with number 1. He cannot go along with number 3 the way it is written. He thinks the use of roll cages should only be allowed raccoons. He suggested striking bear, bobcat and raccoon in item number 2. He does not support the bobbing of coyote tails should be allowed unless it is performed by a veterinarian.

Mr. Ela stated that he thinks there are going to be more amendments. He suggested identifying the areas where we would like to see modifications, send it back to the staff for wording, and have them bring it back at the latest December.

The amendment was withdrawn by Mr. Willett and Mr. Poulson agreed.

Mr. O'Brien suggested changing the 2x2" fence wording, changing the 12 hours to 16 hours, grandfather the puppy facility, and allow bobbing of tails if done in a humane way.

Dr. Thomas suggested taking each item and discussing it individually.

Mr. O'Brien asked if there were any objections to number 1 of the WWF amendment.
There was no objection.

Mr. O'Brien asked if there were any objections to number 2 of the WWF amendment.

Mr. Clausen stated that he has concerns about including bear, bobcat and raccoons and being able to train using these animals for 16 hours straight because they are not allowed to run freely within the enclosure.

Mr. Welter stated that he supports removing bear, bobcat, and raccoon.

There were no objections from the other Board members.

Mr. O'Brien asked about number three. He stated that he thinks the one foot rule is very difficult to enforce.

Mr. Clausen asked which animals can be trained using roll cages.

Mr. Thiede stated that only raccoons can be trained in roll cages.

The Board agreed that roll cages should only be used with raccoons and to eliminate the one foot rule.

Mr. O'Brien asked about number 4.

Mr. Clausen stated that he thinks enclosures should be limited to one species. Coyotes and foxes do not get along. The fox is unable to get away.

The Board agreed to not go along with number 4.

Mr. O'Brien asked about number 5.

Mr. Clausen stated he doesn't think bobbing a tail in the manner it is done is humane and as a veterinarian he would not bob it that way. He would require anesthesia for that.

The Board agreed to have language that allowed bobbing under humane conditions.

Mr. Ela asked about the cost of retrofitting fences to meet the rule requirements and grandfathering in existing fences.

The Board agreed to grandfather fences at existing facilities, which would not have to meet the new standards until it was time for the fence to be replaced.

Mr. Poulson asked how big is big for training facility. Is there a limit to how big these facilities can be?

Officer Van Haren stated that the largest one located in another state is 2400 acres. The largest one in Wisconsin is 150 acres. There wasn't much discussed at the public hearing about large facilities.

Mr. Clausen distributed an amendment regarding animal health that read: "To obtain a large acreage hound dog training enclosure permit for coyote or fox, an applicant for the permit must possess a signed consulting veterinarian agreement stating a veterinarian, licensed to practice in Wisconsin is willing to consult and assist with the care and treatment of the coyote or fox held by the permittee under the authority of a hound dog training, trialing, or dog club training license."

Mr. O'Brien asked under what circumstances this is required.

Mr. Poulson stated that he thinks it's a good idea in case a disease breaks out.

Dr. Thomas stated it is just stated that a veterinarian will come if called. It probably doesn't go far enough.

Dr. Clausen stated that he didn't go further when writing this because he wants it to be an education tool. There was no objection from the other Board members.

Mr. Ela suggested that the NRB require a report back in a year or two about animal health: including pursuing funding from the legislature for warden and wildlife staff.

Mr. Welter asked how interested parties would be able to contact the staff regarding the new language.

Dr. Thomas stated this will probably not have to go back out for public hearing. The decision has just been made. We just need the clarifying language from the staff next month.

Mr. Ela MOVED, seconded by Mr. Poulson to defer adoption of Board Order WM-51-04, revisions to NR 12, NR 16, and NR 17 relating to hound training until at the latest December meeting.

Dr. Thomas asked for clarification from legal staff regarding the requirement for public hearings.

Mike Lutz, DNR Attorney stated that another public hearing isn't required.

Mr. Ela withdrew his motion.

Mr. Ela MOVED, seconded by Dr. Thomas to amend the original motion based on the discussion of attachment 1 and to defer adoption of Board Order WM-51-04, revisions to NR 12, NR 16, and NR 17 relating to hound training until at the latest December in order to allow staff to develop specific implementing language. The motion carried unanimously by all members.

3.C.3. Request authorization for public hearing for Board Order FH-22-06 relating to NR 20 pertaining to fishing tournament regulations

Patrick Schmalz, Staff Specialist, Fisheries Management Bureau stated that the Department is requesting authorization to conduct public hearings relating to modification of fishing tournament regulations. The proposed rule revisions were developed with substantial input from the fishing tournament advisory committee (FTAC), established in July 2004 by the Department as required by 2003 Wisconsin Act 249. The Department concurrently established an internal fishing tournament working group (FTWG) that provided substantial input into these rule revisions. The rule revisions were also reviewed by other department staff represented by members of the FTWG.

This rule order contains revisions to the rule that address concerns expressed by members of the NRB at the August 2006 meeting.

This rule contains fishing tournament fee alternatives that include permit application fees for organizers ranging from \$50 to \$850 depending on the cost of the permit program and the size of the fishing tournament. Tournament participant permit fees of \$5 or \$10 are also presented. Establishment of a permit issuance system would result in a one-time ALIS programming cost of \$1500. The rule also establishes tournament permit requirements, and limits on the size and number of fishing tournaments on water bodies based on the size of the waterbody.

Language established in s. NR 20.40, Wis. Adm. Rule for the purpose of s. 29.4035, Stats., is repealed in this proposal. The bass tournament pilot program expires December 31, 2006.

Mr. Ela asked about who pays the recovery costs.

Mr. Schmalz stated that the three alternatives are: total recovery by tournament organizers, total recovery split between tournament organizers and tournament participants, and split recovery between tournament organizers, tournament participants, and fish and wildlife account.

Mr. O'Brien stated the NRB is adamantly opposed to recovery costs from the fish and wildlife account so why is it an option.

Mr. Schmalz stated that the Department's reasoning was tournament participants contribute to that account and since it's just going out for public hearing, we wanted to hear what the public thought.

Mr. Welter stated that the discussion that happened at the last meeting and earlier today is that the NRB doesn't want the Department to incur any costs related to tournament fishing. He asked about small lakes and species control measures.

Mr. Schmalz explained traditional tournament regulations and best management practices.

Mr. Welter MOVED, seconded by Mr. Willett to approve request authorization for public hearing for Board Order FH-22-06 relating to NR 20 pertaining to fishing tournament regulations without funding option #3. The motion carried unanimously by all members.

- 3.C.4. Request authorization for public hearing for Board Order FH-35-06 relating to NR 25 pertaining to commercial fishing open seasons in Lake Michigan for chubs.

Bill Horns, Great Lakes Fisheries Coordinator, Fisheries Management and Habitat Protection Bureau stated that the proposed rule would repeal a sunset clause pertaining to commercial fishing for chubs in Lake Michigan. NRB Order FH-34-01 revised commercial fishing depth limits, but included a sunset provision by which the changes would expire on July 1, 2007. The proposed rule would allow the present rules to continue indefinitely. Under those rules the minimum depth for commercial chub nets is 45 fathoms from January 16 through April 25. If the proposed rule is not adopted and the sunset clause is allowed to take effect, minimum depths would vary by area and season. During January 16 through the end of February the minimum depth would be 55 fathoms in the northern chub fishing zone and 60 fathoms in the southern chub fishing zone. During March 1 through April 25 the minimum depth would be eliminated.

Mr. Willett MOVED, seconded by Mr. Clausen approval of request authorization for public hearing for Board Order FH-35-06 relating to NR 25 pertaining to commercial fishing open seasons in Lake Michigan for chubs. The motion carried unanimously by all members.

- 3.C.5. Land Acquisition, Turtle Flambeau Scenic Waters Area, Wolf River Bottoms Area, Woodboro Lakes Wildlife Area and Statewide Natural Areas, Iron, Shawano, Oneida, Jackson and Dunn Counties.

Mr. Willett MOVED, seconded by Dr. Thomas approval of Land Acquisition, Turtle Flambeau Scenic Waters Area, Wolf River Bottoms Area, Woodboro Lakes Wildlife Area and Statewide Natural Areas, Iron, Shawano, Oneida, Jackson and Dunn Counties. The motion carried unanimously by all members.

- 3.C.6. Land Acquisition, Kettle Moraine State Forest-Northern Unit, Sheboygan County.

Mr. Willett MOVED seconded by Dr. Thomas approval of Land Acquisition, Kettle Moraine State Forest-Northern Unit, Sheboygan County. The motion carried unanimously by all members.

- 3.C.7. Land Acquisition, Central Wisconsin Grasslands Conservation Area, Portage County.

Mr. Willett MOVED, seconded by Mr. Poulson approval of Land Acquisition, Central Wisconsin Grasslands Conservation Area, Portage County. The motion carried unanimously by all members.

- 3.C.8. Land Acquisition and Donation, Mead Wildlife Area, Wood County.

Mr. Welter MOVED, seconded by Mr. Willett approval of Land Acquisition and Donation, Mead Wildlife Area, Wood County. The motion carried unanimously by all members.

4. Citizen Participation 1:00 p.m.

4.A. Public Appearances

1. **Patricia Randolph**, Portage, RAVEN was not present.

5. Board Members' Matters

Dr. Thomas stated that the August meeting for 2007 is scheduled in conflict with a national meeting she must attend. She asked Mr. Hauge to work with staff regarding the waterfowl regulations to see if the meeting could be held a week later. Secondly, she had her well water tested and she has Alachlor in her well. Thirdly, she asked for staff to provide education and enforcement of movement of aquatic invasive species for the general public as well tournament participants.

6. Special Committees' Reports

6.A. Land Management, Recreation, and Fisheries/Wildlife

6.A.1. Report on reconsideration of the updated wolf management report

Dr. Thomas stated that Chairman Gerald O'Brien asking the committee to address some concerns about the recently updated wolf management report. Mr. Clausen and Mr. Welter assisted Dr. Thomas by interviewing the members of the agriculture damage subcommittee. They were able to interview five out of the six members. After the interviews, the NRB subcommittee found that there wasn't a significant breach in procedure by the staff. The author of the report that some parties have suggested be included in the plan did not submit the report to the committee or the Department for review. There are several people in the group that think that these issues need to be looked at more thoroughly. The NRB committee asked the staff to look at collateral, livestock damage issues more thoroughly before next year plan review. It should go through the wolf committee process at the yearly review.

7. Department Secretary's Matters

7.A. Retirement Resolutions

7.A.1. Ralph J. Eswein

7.A.2. William S. Rand

7.A.3. Paul J. Koziar

7.A.4. Joyce Armstrong

7.A.5. Donald M. Ritland

7.A.6. Richard Rebicek

Mr. Welter MOVED, seconded by Mr. Poulson approval of the retirement resolutions. The motion carried unanimously by all members.

7.B. Donations

7.B.1. The Friends of Hartman Creek will donate \$9,700 for a utility vehicle at Hartman Creek State Park.

Mr. Welter MOVED, seconded by Mr. Willett approval of the \$9,700 donation from the Friends of Hartman Creek for a utility vehicle at Hartman Creek State Park. The motion carried unanimously by all members.

8. Information Items

8.A. Air, Waste, and Water/Enforcement

8.A.1. EPA Public Review of Bad River Band application for treatment as a State.

Mike Lutz, DNR Attorney, stated that recently EPA announced a public comment period for the Bad River Band of the Lake Superior Tribe of Chippewa Indians' application for treatment as a state under the Federal Clean Water Act. In accordance with EPA procedures, interested parties have been invited to submit written comments by October 26, 2006, to Todd Ambs for forwarding to the EPA. The EPA is reviewing

the Bad River Band's application. In the state's view, the Bad River's authority to impact local, non-Indian activities would be limited to the following activities subject to permits issued under the Clean Water Act. The Bad River would determine water quality standards applied to any point source discharge on the reservation.

Any permits issued by the state to point source dischargers upstream of the reservation could not lower water quality on the reservation.

Finally, the Bad River, not DNR, would be responsible for issuing the water quality certifications on reservation lands for wetland fill permits issued by the Army Corps of Engineers.

The authorization, if approved, would not extend, for example, to septic systems or agricultural runoff or to shoreland zoning standards.

Mr. Welter asked about the Lac du Flambeau application

Mr. Lutz stated that it is still pending and won't be decided on within the next couple of months.

Mr. Willett asked about the Marengo River and impacts on the agriculture community.

Mr. Lutz stated that all the farms are small and do not require a discharge permit and will not be affected.

8.B. Land Management, Recreation, and Fisheries/Wildlife

8.B.1. Commercial Fishing Harvest – Outlying Waters

Bill Horns, Great Lakes Fisheries Coordinator, Fisheries Management and Habitat Protection Bureau stated that in October of 1998 the Natural Resources Board asked for periodic reviews of harvest limits for all commercial fish species in Wisconsin waters of Lake Michigan and Lake Superior. These reviews also provide an opportunity to give the NRB some advance notice about likely future changes in harvest limits. This year the recovery of yellow perch in Green Bay and a single very strong yellow perch year-class in Lake Michigan make those populations the focus of interest. Representatives of the two Commercial Fishing Boards will be invited to address the NRB during this presentation, pursuant to their statutory charge to recommend harvest limits.

Mark Marique, Commercial Fisherman, stated that he fishes in Zone 1 in Green Bay. He agrees with the Department. The fishing is very good this year. The yellow perch population is on the rebound.

8.B.2. Butler Garter Snake Update

Signe Holtz, Director, Endangered Resources Bureau stated that at the April 2005 Natural Resources Board meeting, the Department briefed the Board on the Butler's Garter Snake Conservation Strategy. The Department has been implementing the Strategy since then, including issuing broad authorization for Tier 2 sites, working with local land trusts, and providing information and training to builders and developers. The staff has continued to respond as requests for permits are submitted to the SER staff and has worked directly with builders and developers to find ways for development to occur on Tier 3 sites at the same time protecting the snake in the long term.

On July 18, 2006, the Joint Committee for the Review of Administrative Rules held a hearing on Butler's garter snake. The committee took action to suspend the listing of the snake as of October 1, 2006, unless the Department met three requirements: 1) the Department of Natural Resources (DNR) lowers its determination of the number of sites necessary to maintain the viability of the Butler's garter snake; 2) DNR formulates a plan to mitigate further the amount of land affected by the conservation needs associated with the Butler's garter snake; and 3) DNR specifies parameters for the orderly delisting of the Butler's garter snake from the state's threatened species list.

The Department has met several times with a subset of stakeholders to address the committee's concerns. The Department will update the Board on the Committee's action and provide next steps that the Department intends to take.

At the hearing today, the committee gave us until November 30th rather than the October 1st deadline.

Mr. O'Brien asked how many acres the 65 sites are.

Ms. Holtz stated that tier 3 sites are 30 acres or larger.

Mr. Willett asked about the genetics of the Butler Garter Snake versus the common Garter Snake and whether it can be introduced to other areas of the state.

Ms. Holtz stated that there is a report that confirms the genetics of the Butler Garter Snake are a separate snake and is the same snake that is found in Indiana, Michigan, and Ohio.

Mr. Welter asked if there is statutory authority for the legislature to delist a threatened species. Has it ever been done before?

Tim Andryk, DNR Attorney stated that they have statutory authority to suspend any rule. It's a temporary suspension that must be followed up by a bill that must pass both houses. If the bill dies, the rule goes back into effect.

Ms. Holtz stated that it would be the first time that a political body has delisted an endangered or threatened species.

Mr. Welter asked if the U.S. Fish and Wildlife Service (USFWS) could list this species federally.

Ms. Holtz stated that there are some conservation groups that are working together to petition the USFWS.

Mr. Willett asked what other states with this species are doing to protect it.

Ms. Holtz stated that in Indiana it is on the state threatened list. It is not listed in Ohio or Michigan. Ohio is going to do some more surveys. In Ontario it is listed as threatened.

The meeting adjourned at 3:32 p.m.